BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of	)	FINDINGS OF FACT,
Portland School District 1J	)	CONCLUSIONS,
	)	AND FINAL ORDER
	)	Case No. 26-054-092

I. BACKGROUND

On August 6, 2026, the Oregon Department of Education (Department) received a written Complaint (Complaint) from the parent (Parent) of a student (Student) who resides in and attends school in the Portland School District (District) regarding the special education of the Student. The Parent requested that the Department conduct a special education investigation, as provided by Oregon Administrative Rule (OAR) 581-015-2030. The Department confirmed receipt of this Complaint and forwarded the request to the District.

Under state and federal law, the Department must investigate written complaints that allege violations of the Individuals with Disabilities Education Act (IDEA) and issue an order within sixty days of receipt of the complaint.[1] This timeline may be extended if the Parent and the District agree to the extension to engage in mediation or local resolution or for exceptional circumstances related to the complaint.[2]

On September 1, 2026, the Department's Complaint Investigator sent a *Request for Response (RFR)* to the District identifying specific allegations in the Complaint to be investigated and establishing a *Response* due date of September 15, 2026. On September 10, 2026, the attorney for the District requested an extension of time to provide the District's response due to the attorney's obligation to file a response in another matter on the same day and due to the voluminous number of emails to be reviewed in this matter. On September 14, 2026, the Department's Complaint Investigator spoke with the District's attorney regarding the District's request for an extension of the time to respond. The Department's Complaint Investigator notified the District's attorney that they must adhere to the original timeline for the *Response* but would be permitted to submit a supplementary response and email records by September 25, 2026. The District submitted a *Response* on September 14, 2026, generally disputing the allegations in the Complaint and providing extensive records. The District provided a supplementary *Response* on September 24, 2026, adding details to its original *Response* and providing additional records consisting of emails and their attachments. The Department's Complaint Investigator offered the Parent additional time to reply to the District's supplemental *Response,* which the Parent declined. The District submitted the following relevant items:

[1] OAR 581-015-2030(12) and 34 CFR § 300.152(a)
[2] OAR 581-015-2030(12) and 34 CFR § 300.152(b)

1. District's Narrative Response, 9/14/26
2. District's Supplemental Response, 9/14/26
3. Notice of Team Meeting, 6/8/25
4. Meeting Notes, 6/13/25
5. Prior Written Notice, 6/13/25
6. Parent input regarding goals, Undated
7. Meeting Notes, 9/18/25
8. Prior Written Notice, 9/19/25
9. Parent Concerns and Parent Report of Present Levels, 9/25
10. Notice of Team Meeting, 9/18/25
11. Draft IEP Goals, Undated
12. IEP Meeting Notes, 10/8/25
13. Prior Written Notice, 10/13/25
14. Prior Written Notice, 10/17/25
15. Notice of Team Meeting, 10/13/2025
16. Prior Written Notice, 10/27/25
17. IEP Meeting Notes, 10/22/25
18. Notice of Team Meeting, 10/23/25
19. IEP, 11/7/2025
20. Special Education Placement Determination, 11/7/25
21. Comprehensive Function Based Behavior Support Plan, 11/7/25
22. IEP Meeting Notes, 11/7/2025
23. Prior Written Notice, 11/14/25
24. Prior Notice and Consent for Initial Provision of Special Education Services
25. Prior Written Notice, 12/19/25
26. Notice of Team Meeting, 4/20/26
27. Manifestation Determination, 4/28/26
28. Prior Written Notice, 4/30/26
29. Draft IEP, 6/10/2025
30. Draft IEP, 9/18/25
31. Draft IEP, 10/22/25
32. Draft IEP, 11/7/25
33. Multidisciplinary Evaluation Report, 6/12/25
34. Letter from Physician, 6/12/25
35. Confirmed Eligibility Meeting Notes, 6/12/25
36. Prior Written Notice, 6/12/25
37. Written Agreement between the Parent and the District, 6/12/25
38. Disability Statement (EBD), 6/12/25
39. Disability Statement (OHI), 6/12/25
40. Disability Statement (ASD), 6/12/25
41. Eligibility Summary Statement, 6/12/25
42. Confidential Psychological Assessment (IEE), 12/4/25
43. Prior Written Notice, 2/10/26
44. Prior Written Notice, 5/1/26

45. Prior Written Notice, 6/1/26
46. IEP Progress Report, 6/12/26
47. Emails between the District and the Parent,

The Parent submitted a *Reply* to the District's initial response on September 22, 2026. The Parent submitted a *Reply* to the District's supplemental *Response* on September 25, 2026.

On September 29, 2026, the Department's Complaint Investigator interviewed the Parent and provided the opportunity for the Parent to provide additional information. On October 1, 2026, the Department's Complaint Investigator interviewed the Vice Principal at the Student's School, the Qualified Mental Health Professional who served the Student at the Student's school, and the Special Education Case Carrier who served the Student at the Student's school. On October 2, 2026, the Department's Complaint Investigator interviewed the Speech and Language Pathologist who served the Student at the Student's school. Virtual and telephone interviews were conducted instead of on-site interviews. The Complaint Investigator reviewed and considered all these documents, interviews, and exhibits in reaching the findings of fact and conclusions of law contained in this order. This order is timely.

II. ALLEGATIONS AND CONCLUSIONS

The Department has jurisdiction to resolve this Complaint under 34 CFR §§ 300.151-153 and OAR 581-015-2030. The Parent's allegations and the Department's conclusions are set out in the chart below. The conclusions are based on the Findings of Fact in Section III and the Discussion in Section IV. This Complaint covers the one-year period from August 7, 2025, to the filing of this Complaint on August 6, 2026.

Allegations	Conclusions
When IEPs Must Be in Effect[3] The Complaint alleges the District did not implement special education and related services in accordance with the Student's IEP. Specifically, the Complaint alleges the District failed to implement the following in accordance with the Student's IEP: A. Specially designed instruction in the areas of: 1. Social and emotional skills, 2. Executive functioning, 3. Reading,	**Not Substantiated** The District attempted to provide the Student with the services and accommodations in the Student's IEP, but the Student was frequently absent. Moreover, when the Student was in attendance, the Student consistently refused to engage with the District's providers.

[3] The Department originally listed the failure to provide special education services from the beginning of the Complaint period through November 7, 2025 as an allegation. However, the Parent clarified that her allegations were limited to implementation of the IEP following its completion on November 7, 2025. See factual finding 5.

4. Writing, 5. Mathematics, 6. Communication, and 7. Transition skills. B. Accommodations in the areas of: 1. Executive function, 2. Instructional supports, 3. Behavioral supports, 4. Communication and collaboration, and 5. Access to instruction and participation. C. Related services in the areas of: 1. Behavior, 2. Speech and language, 3. Psychology, 4. Transition, and 5. Transportation. (OAR 581-015-2220; 34 CFR §300.323)	
Free Appropriate Public Education (FAPE) Due to the alleged IDEA violations detailed above, the Complaint alleges that the District failed to provide the Student with a free appropriate public education. (OAR 581-015-2040; 34 CFR §300.101)	**Not substantiated** The District did not fail to implement the IEP as alleged, thus, no denial of FAPE occurred.

REQUESTED CORRECTIVE ACTION
The Complainant requested corrective action as follows: 1. Order compensatory education and related services to remedy lost educational opportunities due to implementation failures based on an individualized review of unimplemented services, instruction, accommodations, behavioral supports, related, and transition services.

2. Require the District to reconvene the IEP team to review the Department's findings and determine whether revisions to the IEP, BSP, implementation procedures, staff responsibilities, progress-monitoring methods, transition planning, and communication procedures are necessary to ensure consistent implementation moving forward.

3. Require the District to develop a written implementation plan identifying staff responsible for each SDI, accommodation, supplementary aid and service, related service, behavioral support, and transition service, including procedures for documenting implementation and monitoring fidelity.

4. Require training for all personnel at the Student's school.

5. Order any additional corrective action ODE determines is necessary to ensure future compliance with IDEA, Oregon Administrative Rules, and faithful implementation of the Student's educational program.

III. FINDINGS OF FACT

1. The Student in this matter is 17 years old and attended high school within the District during the Complaint period. The Student has medical diagnoses of Autism Spectrum Disorder ("ASD"), Attention Deficit Hyperactivity Disorder ("ADHD"), Mood Disorder, Unspecified Type, and Post Traumatic Stress Disorder ("PTSD"). **(Parent Interview, Staff Interviews, DE3-P106)**

2. The District assessed Student for special education eligibility in the Spring of 2025. The Student's team met on June 12, 2025 and determined the Student qualified for special education under the categories of Emotional Behavioral Disability ("EBD") and Other Health Impaired ("OHI") based on their medical diagnoses of ADHD, Tourette's Syndrome, and PTSD. The District considered eligibility under the category of Autism but did not agree that the Student met the criteria for eligibility under that category. The District provided the Parent with prior written notice regarding its eligibility decision the same day. **(DE3-P114-118).**

3. The District convened an initial IEP team meeting for the Student on June 13, 2025. The team was unable to complete the IEP in the time available and agreed to reconvene following the summer recess to continue its discussions. (**Parent Interview, Staff Interviews, DE1-P5)**

4. On the first day of school, the Vice Principal, the school psychologist, the school counselor, and the Dean of Students, met with the Student's teachers to discuss the Student's strengths, and how best to support the Student with the use of breaks, meeting the campus

expectations regarding cell phone usage, and how best to support any possible escalation. District staff explained to the Parent the reasoning for this discussion was to ensure the Student began the new school year with some support while their IEP was being developed. **(Staff Interviews)**

5. The District convened four additional IEP team meetings to finalize the Student's IEP, culminating in a meeting on November 7, 2025 when the District was able to complete the proposed IEP. (**Parent Interview, Staff Interviews, DE1-P60-97)**

6. Following the completion of the IEP, the District provided the Parent with a draft of the completed IEP and engaged in extensive email discussions with the Parent regarding changes the Parent requested to the IEP and BSP, making most of the changes requested by the Parent and provided prior written notice for any changes refused by the District. **(Staff Interviews) (DE6-P875,909,965,1007,1054,1064,1073,1082,1100,1101,1160,1171)**

7. Following the IEP, the Case Carrier distributed a list of the accommodations called for by the IEP and summary of the behavior plan to the Student's teachers. **(Staff Interviews)**

8. On January 30, 2026, the District responded to an email from the Parent requesting information regarding the implementation of the Student's IEP. The District wrote that the special education staff had been proactive and consistent in attempting to deliver the services in the Student's IEP and noted the Student's resistance to accepting services from the District's providers:

   > "school staff are also taking a relational approach that does not make [the Student] feel singled out (per the accommodation 'avoid singling [the Student] out in front of their peers'). I say "offer" and "when [the Student] is present," because [the Student] has consistently been telling staff 'I'm good', ignoring SES staff interactions, or walking away from SES staff. Per the accommodation 'allow space when [the Student] says 'stop' or doesn't want to talk,' SES staff have been providing space after these instances.
   >
   > **In-Class Support**: Currently staff who meet [the Student] in class come prepared with one of our classroom Chromebooks, because [the Student] does not carry materials with [the Student]. We can also help navigate to assignments and activities.
   >
   > **SDI Minutes:** As noted in the IEP, SES staff have been scheduled to provide push-in support in the areas for 5 out of 8 classes in [the Student's] schedule. Staff attend these classes to provide general push-in services and try to find [the Student] if [the Student] isn't present."
   >
   > **(Staff Interviews, DE6-P1351)**

9. On August 6, 2026, the Parent filed this Complaint.

10. The Department's Complaint Investigator interviewed the Parent on September 29, 2026. The Parent repeated the allegations contained in their complaint. The Parent generally described the District's approach to the Student as "fluffy" and "passive," claiming District staff failed to "push" the Student or provide the structure required by their IEP. **(Parent Interview)**

11. The Parent said the District has failed to implement the managing escalation cycle and behavior plan, often ignoring the requirement to re-engage the Student every 10–20 minutes. **(Parent Interview)**

12. The Parent further argued that the general education teachers have not received the required training to implement the Student's specially designed instruction. **(Parent Interview)**

13. The Department's Complaint Investigator interviewed District Staff on October 1 and 2, 2026.

14. The Vice Principal at the Student's school explained their responsibility for oversight of the provision of special education services at the Student's school. They discussed the extensive interactions they had with the Parent over the course of the 2025-2026 school year and their interactions with the school staff in supporting their communications with the Parent. **(Staff Interviews)**

15. The Vice Principal said the Case Carrier is responsible for distributing the IEP to the Student's teachers and providing the teachers with a list of relevant accommodations and confirmed knowledge of the Case Carrier doing so here. (**Staff Interviews)**

16. The Vice Principal said the Student was placed in seven general education classes and one special education class focused on social emotional skills. The placement was partially determined based on extensive input from the Parent who believed the Student would not participate in additional special education classes. (**Staff Interviews)**

17. The Vice Principal explained the Student's special education instruction in general education settings is delivered by general education teachers in collaboration with the case manager. **(Staff Interviews)**

18. The Vice Principal said the social-emotional skills and psychological services are delivered by the District's Qualified Mental Health Specialist ("QMHS"), often using a flexible "meet where he is" model, such as delivering minutes during sensory walks. **(Staff Interviews)**

19. The Vice Principal said the Speech and Language Pathologist delivered communication services to the Student using a similar flexible delivery model. **(Staff Interviews).**

20. The Special Education Case Carrier said they are responsible for coordination of the provision of the Student's services, including the distribution of the Student's IEP to the Student's teachers. The Case Carrier said they distributed copies of the Student's accommodations and behavior support plan to the Student's teachers following the finalization of the IEP. **(Staff Interviews)**

21. The Case Carrier described a consistent pattern of service refusal by the Student, despite the school's efforts to implement the IEP. While the District provided para-educator support and accommodations, the Student's lack of attendance and resistance to engagement significantly hindered the delivery of special education services. **(Staff Interviews)**

22. The Case Carrier convened classroom meetings and provided training for para-educators regarding the Student's specific accommodations. They explained dedicated para-educators were assigned to the Student's Government, Economics, Math, and English classes to provide routine reminders and proactive break plans every 20 minutes, but that often the Student would not be present in the classroom. At times when the staff believed that the Student had been present on campus but was not in class, the paraeducators would attempt to locate him and provide an opportunity to return to class and receive instruction. **(Staff Interviews)**

23. The Case Carrier said Specially Designed Instruction (SDI) was provided to the Student by general education teachers at the Parent's explicit request, despite the Case Carrier's professional opinion that this was not best practice for a student with significant academic gaps and behavioral issues. However, the Case Carrier believed the model could be appropriate for the Student and collaborated with the general education teachers to provide training for the delivery of the SDI. **(Staff Interviews)**

24. The Case Carrier said the IEP called for the placement for one period per day in a special education social-emotional skills class. The class would have been where the Case Carrier and the QMHS provided direct services to the Student, including transition planning. However, the Student did not attend the class during the entirety of the Complaint period. **(Staff Interviews, Parent Interviews)**

25. The Case Carrier said that they would check in with the Student often, but the Student consistently refused to meet, often responding with rudeness or inappropriate remarks about the Case Carrier. **(Staff Interviews)**

26. The QMHS said they were tasked with providing the Student with 90 minutes per month of direct service. The service would have been provided in the special education classroom, if the Student attended the class. **(Staff Interviews)**

27. The Student was absent from meetings the Student scheduled with the QMHS, the School Counselor, and the Case Carrier to review the schedule and make introductions on

November 20, 2025 and December 3, 2025. The QMHS, Case Carrier, School Counselor went to one of the Student's general education classes on January 9, 2026 to introduce themselves and provide information about the staff from the social emotional classroom that was available to him. **(Staff Interviews, DE Supplemental K Progress Note 2025-2026)**

28. The QMHS said the Student never attended the social emotional class, so the QMHS checked in with the Student in the hallways and offered support, but the Student was either absent or refused to meaningfully engage with the QMHS. The QMHS kept a detailed log of their attempts to provide services to the Student, which indicate that in the 17 attempts the QMHS attempted to provide services to the Student, the Student was absent 15 times and refused to engage twice. **(Staff Interviews, DE Supplemental K Progress Note 2025-2026)**

29. The Speech and Language Pathologist described a similar service model as the QMHS, in which they would attempt to meet the Student "where he was" and provide services. The Student consistently refused to engage with the Speech and Language Pathologist, who also kept a detailed log of their attempts to provide services. The log showed that the Speech and Language Pathologist first attempted to provide services on December 8, 2025, when the Student declined to engage. The log indicates the Speech and Language Pathologist regularly attempted to provide services to the Student, who declined to engage in 13 of 13 documented attempts from December 8, 2025 through May 26, 2026. **(Staff Interviews) (DE Supplemental JKD Service Log)**

IV. DISCUSSION

Alleged Failure to Implement the Student's IEP

The Complaint alleges the District did not provide special education and related services in accordance with the Student's IEP. The allegation is not substantiated because the evidence shows the District attempted to provide the Student with the services and accommodations in the Student's IEP, but the Student was frequently absent. Moreover, when the Student was in attendance, the Student consistently refused to engage with the District's providers.

To provide a student a FAPE, a school district must deliver special education and related services "in conformity with" the student's IEP. (20 U.S.C. § 1401(9)(D).) A school district that fails to implement an IEP exactly does not violate the IDEA "unless it is shown to have materially failed to implement the child's IEP." (*Van Duyn v. Baker School Dist. 5J* (9th Cir. 2007) 502 F.3d 811, 815, citing 20 U.S.C. §§ 1414(d)(3)(F), 1415(b)(3)).) A material failure occurs when there is more than a minor discrepancy between the services a school provides to a disabled child and the services required by the child's IEP. (*Id.* at p. 822.) There is no statutory requirement of perfect adherence to the IEP and there is no reason rooted in statutory text to view minor implementation failures as a denial of FAPE. (*Id.* at p. 821.)

Here, the Parent appears to believe the failure to deliver specialized instruction and services to the Student due to the Student's absences and refusal to engage with the District's providers was a material failure on the part of the District to implement the Student's IEP. The evidence does not support this contention. The IDEA requires school districts to provide an eligible child access to special education and related services that the child requires to receive a FAPE. (*Board of Education of the Hendrick Hudson Central School District v. Rowley* (U.S. 1982) 458 U.S. 176 at p. 201.) However, that obligation does not extend to requiring school districts to guarantee that a child accept and access the special education and related services offered to the child by the school district. Here, the District consistently provided the Student access to all the services called for by the Student's IEP during the Complaint period. Similarly, the District took appropriate action to ensure the provision of the Student's accommodations immediately following the completion of the Student's IEP.

Specifically, the District made the specially designed instruction called for by the Student's IEP available to the Student in the following ways. First the Special Education Teacher provided consultation to the Student's general education teachers regarding the provision of specially designed instruction to the Student and regularly checked in with the teachers regarding the Student. Additionally, the Special Education Teacher supervised paraprofessionals who were available to provide support to the Student within the general education classroom. Finally, the Special Education Teacher was available to provide specialized instruction and transition planning within the special education class period to which the Student was assigned. However, the Student frequently skipped general education class periods or left them early and never attended the special education class.

Similarly, the District's Qualified Mental Health Specialist and Speech and Language Pathologist each made repeated and consistent attempts to engage with the Student to provide the services called for by the Student's IEP in the manner called for by the IEP. The Student repeatedly and consistently refused to engage with either. Both providers responded to the Student's refusal to engage in accordance with the accommodations specified in the Student's IEP and utilizing the strategies called for by the Student's behavior plan.

Finally, the claim that the District did not provide the accommodations called for by the Student's IEP is not supported by the evidence. On the contrary, the evidence shows the District's Case Carrier provided a list of relevant accommodations to the Student's teachers following the completion of the IEP. The District staffed five of the Student's general education classes with paraprofessionals with knowledge of the Student's accommodations, partially to ensure the accommodations were provided across settings. Additionally, the way the Special Education Teacher, Speech and Language Pathologist, and the Qualified Mental Health Specialist attempted to provide their services was consistent with the accommodations listed in the IEP.

In sum, the District's inability to deliver services to the Student due to the Student's absences and refusals to attend was not a material failure on the part of the District to implement the

Student's IEP. When the Student was present, the District took appropriate steps to ensure the provision of the Student's special education services and accommodations.

The Department does not substantiate this allegation.

Free Appropriate Public Education (FAPE)

Due to the alleged IDEA violations detailed above, the Complaint alleges that the District failed to provide the Student with a free appropriate public education. The allegation is not substantiated because the District did not fail to implement the Student's IEP as alleged.

School districts must provide FAPE to all school-age children with disabilities for whom the district is responsible.[4] Procedural violations may only lead to finding that a child did not receive a FAPE if they: "(I) impeded the child's right to a free appropriate public education; (II) significantly impeded the parents' opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents' child, or (III) caused a deprivation of educational benefits."[5] In determining whether a student was denied a FAPE, courts review a district's compliance with both the procedural and substantive components of the Student's education. Reviewing courts must inquire whether the school district complied with the procedural requirements of the IEP, and whether the school district met the substantive requirements to develop an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.[6]

In this case, there were no findings of procedural or substantive violations of the IDEA, accordingly there was no denial of FAPE.

The Department does not substantiate this allegation.

V. CORRECTIVE ACTION

In the Matter of Portland School District 1J
Case No. 26-054-092

Based on the facts provided, no corrective action is ordered.

Dated: this 6th Day of October 2026

[4] OAR 581-015-2040
[5] 20 USC § 1415(f)(3)(E)(ii)
[6] *Endrew F.*, 137 S.Ct. at 999.

Ramonda Olaloye

Ramonda Olaloye
Assistant Superintendent
Office of Enhancing Student Opportunities

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provision of ORS § 183.484. (OAR 581-015-2030 (14). A party may request reconsideration by the Superintendent within 60 days after the date of the Order pursuant to OAR 137-004-0080 and OAR 581-015-2030(14)(b). A request for reconsideration does not stay this Order, and corrective action must begin according to the timelines stated herein. OAR 581-015-2030(14)(c).